

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE TENNESSEE**

September 16, 1999

IN RE:)	
)	
KMC TELECOM III, INC. FOR A CERTIFICATE OF)	DOCKET NO. 99-00211
CONVENIENCE AND NECESSITY TO PROVIDE)	
FACILITIES-BASED AND RESOLD LOCAL)	
EXCHANGE AND RESOLD INTEREXCHANGE)	
TELECOMMUNICATIONS SERVICES)	
THROUGHOUT THE STATE OF TENNESSEE)	

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY**

On July 28, 1999, this matter came before the Tennessee Regulatory Authority ("Authority"), upon the Application of KMC Telecom III, Inc. ("KMC III") for a Certificate of Public Convenience and Necessity as a Competing Telecommunications Service Provider to offer a full array of telecommunications services within the State of Tennessee (the "Application"). The Application was made pursuant to Tenn. Code Ann. § 65-4-201 *et seq.*

LEGAL STANDARD FOR GRANTING CCN

KMC III's Application was considered in light of the criteria for granting a certificate of public convenience and necessity ("CCN") as set forth in applicable statutes. Tenn. Code Ann. § 65-4-201 provides, in part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the

construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

* * *

(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services.

An authority order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

In addition, pursuant to Tenn. Code Ann. § 65-5-212, competing telecommunications providers are required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

INTERVENORS

Public notice of the hearing in this matter was made by the Authority's Executive Secretary, pursuant to Tenn. Code Ann. § 65-4-204. No parties intervened prior to the hearing, opposed KMC III's Application, submitted testimony, or participated in the hearing.

KMC III'S HEARING

KMC III's Application was uncontested. At the hearing held on July 28, 1999, KMC III was represented by Mr. Kevin D. Minsky of Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 20007. In addition, Mr. John D. McLaughlin Jr., KMC III's Manager of State Regulatory Affairs presented testimony and was subject to examination by the Authority's Directors. Upon KMC III's conclusion of the proof in its case, the Authority granted KMC III's Application based upon the following findings of fact and conclusions of law:

I. APPLICANT'S QUALIFICATIONS

1. KMC III is a Delaware corporation that was incorporated on December 14, 1998. KMC III has obtained the required authority to transact business in the State of Tennessee.
2. The complete street address of KMC III 's principal place of business is 1545 Route 206, Suite 300, Bedminster, New Jersey 07921-2567. The phone number is (908) 470-1545 and the fax number is (908) 719-8775. KMC III's counsel are Eric J. Branfman and Kevin D. Minsky of Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 20007.
3. The Application and supporting documentary information existing in the record indicate that KMC III has the requisite technical and managerial qualifications necessary to provide a full array of local exchange and interexchange telecommunications services within the State of Tennessee on a facilities-based and resale basis. KMC III's management and technical teams have particular expertise in the development and deployment of facilities-based and resold telecommunications services.
4. KMC III has the necessary capital and financial qualifications to provide the services it proposes to offer.
5. KMC III has represented that it will adhere to all applicable policies, rules and orders of the Authority.

II. PROPOSED SERVICES

1. KMC III intends to provide all forms of resold and facilities-based local exchange telecommunications services to residential and business customers, including: (1) basic residential exchange services (local exchange flat rate, measured rate service, operator access, etc.); (2) residential custom and class features (call waiting, caller ID, call forwarding, etc.); (3) basic business exchange services; (4) business custom calling and class features; (5) adjunct provided features (voice messaging, etc.); and (6) business and residential ancillary services (directory assistance, directory listing, 911, etc.). KMC III also intends to provide operator assisted services, directory assistance, toll-free calling, dual party relay services, and access to 911 emergency services. KMC III will also offer resold interexchange services throughout the State of Tennessee, including both inbound and outbound intraLATA and interLATA services.

2. Except as may be authorized by law, KMC III does not intend to serve any areas currently being served by an incumbent local telephone company with fewer than 100,000 total access lines where local exchange competition is prohibited pursuant to Tenn. Code Ann. § 65-4-201(d).

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

Upon a review of the Application and the record in this matter, the Authority finds that approval of KMC III's Application would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and by fostering the development of an efficient technologically advanced statewide system of telecommunications services.

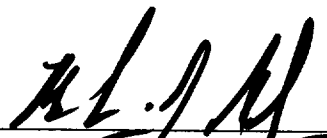
IV. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN & BUSINESS ASSISTANCE PROGRAM

1. KMC III has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-212 and the Authority's Rules.


2. KMC III has acknowledged its obligation to contribute to the funding of the small and minority-owned telecommunications business assistance program, as set forth in Tenn. Code Ann. § 65-5-213.

IT IS THEREFORE ORDERED THAT:

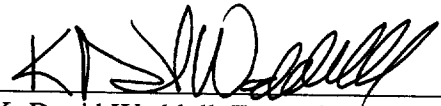
1. KMC III's Application is approved.
2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.
3. Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


Melvin I. Malone, Chairman


H. Lynn Green, Jr., Director


Sara Kyle, Director

ATTEST:


K. David Waddell, Executive Secretary